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9 **UNITED STATES BANKRUPTCY COURT**
10 **SOUTHERN DISTRICT OF NEW YORK**

11 In Re:

12
13 RESIDENTIAL CAPITAL, LLC, et al.,
14 Debtor.

Case No. 12-12020 (MG)

Chapter 11

Jointly Administered

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19 **CLAIMANT ROSALIND ALEXANDER-KASPARIK'S OPPOSITION TO RESCAP**
20 **BORROWER CLAIMS TRUST'S OBJECTION TO PROOF OF CLAIM NO. 3695**
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22 Creditor/claimant, Rosalind Alexander-Kasparik ("Alexander" or "Claimant") submitted
23 her Proof of Claim No. 3695 in this matter to have her litigated claim resolved through the
24 claims resolution process. Pending litigation in the Superior Court for the State of California,
25 County of San Diego, in case entitled *Rosalind Alexander-Kasparik v. Ally Bank, et al.* (SDSC
26 Case No.: 37-2012-00101531-CU-BC-CTL)("State Court Action"), is believed to be stayed as to
27 GMAC, LLC due to this Residential Capital, LLC bankruptcy matter. In that matter, Claimant
28

1 Alexander brought claims against GMAC for illegally and unlawfully proceeding with non-
2 judicial foreclosure sale against her real property located at 1021 Scott Street #149, San Diego,
3 CA 92106 ("Subject Property") on or about July 3, 2012.

4 In the State Court Action, on or about June 17, 2015, Defendant Federal Home Loan
5 Mortgage Corporation for itself alone, filed a demurrer to Plaintiff's Third Amended Complaint.
6 Defendant GMAC, LLC did not file a demurrer to Plaintiff's Third Amended Complaint, and did
7 not join in FHLMC's demurrer. Although Plaintiff did not oppose the demurrer as to FHLMC,
8 and the demurrer was granted, the demurrer was also granted as to GMAC (even though GMAC
9 had not filed any demurrer).

10 On December 31, 2015, in the State Court Action, Alexander applied for an Order setting
11 aside and vacating the judgment of dismissal as to GMAC Mortgage, LLC based on the erroneous
12 entry of judgment. The Court Ordered on December 31, 2015 that the judgment of dismissal for
13 GMAC Mortgage, LLC be vacated and set aside, and that the matter is stayed. (See Request for
14 Judicial Notice, Exhibit A, Order on Plaintiff's Ex Parte Application To Set Aside Judgment).

15 As Rescap Borrower Claims Trust's Objection is based solely on the Judgment of
16 Dismissal that has now been vacated and set aside, Alexander requests that its objection to her
17 proof of claim be denied.

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19 WHEREFORE, the Movant, Rosalind Alexander-Kasparik, respectfully requests that this
20 Court deny Rescap Borrower Claims Trust's Objection to Proof of Claim No. 3695 Filed on
21 Behalf of Rosalind Alexander-Kasparik.

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23 Dated: January 4, 2016

Respectfully submitted,
CATE LEGAL GROUP

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25
26 /s/ Allan Cate

27 Allan Cate (California Bar No. 248526)
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon counsel of record for all other parties to this action on this 4th day of January 2016.

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18 /s/ Allan Cate

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20 Allan Cate
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